

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ANTHONY L. KLEND
Claimant

VS.

ELDORADO NATIONAL
Respondent,
Self-Insured

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Docket No. 262,872

ORDER

Claimant appealed the July 3, 2003 Award entered by Administrative Law Judge Bruce E. Moore. The Board heard oral argument on December 16, 2003.

APPEARANCES

Elizabeth L. Marietta of Salina, Kansas, appeared for claimant. Mickey W. Mosier of Salina, Kansas, appeared for respondent.

RECORD AND STIPULATIONS

The record considered by the Board and the parties' stipulations are listed in the Award.

ISSUES

Claimant alleges he sustained a series of traumas to his upper back due to the work he performed for respondent from January 2, 2000, through February 6, 2001. But in the July 3, 2003 Award, Judge Moore concluded claimant failed to prove that his alleged upper back injuries were caused by his work.

Claimant contends Judge Moore erred and requests this Board to reverse the July 3, 2003 Award and grant him workers compensation benefits. Conversely, respondent contends the July 3, 2003 Award should be affirmed.

The only issues before the Board on this appeal are:

1. Did claimant prove he injured his back from January 2, 2000, through February 6, 2001, in a series of traumas caused by the work he performed for respondent?
2. If so, what workers compensation benefits is claimant entitled to receive as a result of that injury?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record and after considering the parties' arguments, the Board finds and concludes the July 3, 2003 Award should be affirmed. Judge Moore set forth in detail the pertinent facts in this claim. This Board adopts the Judge's findings and analysis. In summary, the record fails to establish that the work claimant performed for respondent either permanently aggravated or permanently worsened his preexisting condition of kyphosis and scoliosis of the spine, or that the work caused any other permanent injury.

AWARD

WHEREFORE, the Board affirms the July 3, 2003 Award entered by Judge Moore.

IT IS SO ORDERED.

Dated this ____ day of December 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Elizabeth L. Marietta, Attorney for Claimant
Mickey W. Mosier, Attorney for Respondent
Bruce E. Moore, Administrative Law Judge
Anne Haught, Acting Workers Compensation Director